

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 1978 - SB 1993

February 16, 2020

SUMMARY OF BILL: Establishes the *Permit Freedom Act*. Establishes time frames and parameters local governmental entities must follow regarding certain permit applications. Prohibits local governmental entities from assessing application fees in certain circumstances. Authorizes applicants to file a petition for a writ of mandamus if a local governmental entity is noncompliant with the required time frames.

ESTIMATED FISCAL IMPACT:

Other Fiscal Impact – The extent and timing of any mandatory increase in local expenditures associated with legal proceedings cannot reasonably be determined.*

Assumptions:

- The proposed language is applicable only to constitutionally protected activities which require governmental approval via issuance of a permit. Time frames and parameters which are established are applicable only to local governmental entities which require and issue such permits.
- The following time frames and parameters are established for local entities:
 - Criteria which must be met for receipt of a permit must be provided to applicants in clear and unambiguous language;
 - Upon receipt of an application, a final determination must be given within 120 days;
 - If a local entity is required by a state, federal, or court mandate to conduct specific processes prior to issuing a final determination for a specific type of permit application are given 60 days, upon completion of such processes, to issue a final determination;
 - If a permit is denied, reasons for the denial must be given to the applicant;
 - Within 30 days of receiving a denial notice, applicants are authorized to revise the application addressing the reasons for denial. The local entity is prohibited from assessing an application fee for the revised application and must issue a final determination for such revised application within 30 calendar days;
 - If an incomplete permit application is received, the applicant must be notified of the missing components within 21 calendar days of receiving the application; and
 - Permit applications are deemed approved if the local entity fails to issue a final determination within the specified time frames.

- Applicants may file for a writ of mandamus to compel the local government to approve the permit application, if final determination is not issued within the mandated time frames.
- While a complete list of local permits to which the proposed language is applicable is unknown, it is thought to include, but not be limited to, the following:
 - Beer permits;
 - Building permits;
 - Business licenses;
 - Plat approvals; and
 - Public demonstrations;
- Applicants are authorized to seek a writ of mandamus and initiate legal proceedings against any local government entity in noncompliance with the time frames and parameters of the proposed language.
- The prohibition on assessing application fees for the submission of revised applications is estimated to result in a recurring decrease in local revenue which, in the absence of this legislation, would have been assessed and collected by the local entity. It is reasonably assumed that local governments will increase application fees of permits which do not have statutory fee limits in order to compensate for such decreases in local revenue; therefore the net impact to local revenue is estimated to be not significant.
- The proposed language will result in an increase in local expenditures for court costs associated with any legal proceeding initiated by an applicant. The extent and timing for any increase cannot be reasonably determined; however, such increase is considered mandatory.

**Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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